P.R.No. 7451/06
Presented by Shri Kunal Das
dated 15/12/06

Division Bench

(8)

CF 1002

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CHHATTISGARH)

W.P. (C) No. 7329 / 2006

Petitioner : M/s Raghuvir Ferro Alloys Pvt. Ltd. (RFAL). A company registered under the Companies Act, 1956 – Having its registered office at 132-137 Sector-C, URLA, Industrial Area, Raipur (C.G.) 492 001 – Through its Director, Alok Choudhary, S/o S.S.Choudhary, Aged about 36 years, R/o C-86-87, Sector-1, Devendra Nagar, Raipur (C.G.)

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C.E.R.M.A.C. BILASPUR

Versus

Respondents :

1. The State of Chhattisgarh – Through the Department of Power and Electricity, Mantralaya, DKS Bhavan, Raipur (C.G.)
2. The Chhattisgarh State Electricity Board - Through its Chairman, Daganiya, Raipur (C.G.)
3. The Chhattisgarh State Electricity Board – Through its Chief Engineer (RR), Raipur (C.G.)
4. The Chhattisgarh State Electricity Regulatory Commission – Through its Chairman, Civil Lines, Raipur (C.G.)

15/12/06

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

XI-HC-22

125

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... wp 7329/06 ..... **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DB :- Hon'ble Mr. V.K. Shrivastava & Hon'ble Mr. Dhirendra Mishra, JJ

3-1-2007

Shri P. Diwakar, Sr. Advocate with Shri P.K. Bhaduri, counsel for the petitioner.

Shri Prashant Mishra, Addl. Advocate General with Shri Utkarsh Verma, Dy. Govt. Advocate for the State/respondent No.1.

None for respondents No.2, 3 & 4.

Heard.

The factual matrix of the case in brief is that the petitioner is engaged in the business of manufacturing Ferro Alloys and Sponge Iron and need electricity from respondents No.2 & 3 for production of Sponge Iron and Ferro Alloys. To fulfill his requirement, the petitioner entered into contracts with respondents 2 & 3 on various dates whereby the petitioner's quantum of consumption of power was determined. When petitioner's business was not running on its full swing, he got reduced his consumption of electricity. However, when the petitioner's business revived, he raised his demand and that was accepted based on a new H.T. connection, on payment of unjust demand of respondents No.2 & 3 made vide order dated 4-12-2006 issued by respondent No.3.

Learned counsel for the petitioner contended that provisions contained in Clauses 7.4 and 7.6 of the Chhattisgarh State Electricity Supply Code-2005 (henceforth "the Code") are arbitrary and illegal. By invoking the aforesaid provisions, order dated 4-12-2006 (Annexure-P/12) has been passed by respondent No.3 and a demand of Rs.33,83,250/- has been made. On the contrary, learned counsel for the State contended that those provisions are constitutional and are not *ultra vires*.

(126)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 7329/06 **सन् 200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

For appreciating the arguments, provisions contained in Clauses 7.4 and 7.6 of the Code are re-produced below :

"7.4 The licensee shall examine the feasibility of supply of the enhanced load within thirty days and inform the consumer :

(a) whether the additional power can be supplied at the existing voltage or at a higher voltage;

(b) addition or alterations, if any, required to be made to the system and the cost to be borne by the consumer;

(c) amount of additional security deposit, cost of additional infrastructure and the supply arranging charges, if any, to be deposited; and

(d) change in the classification of consumer, if required.

7.6 If the supply of enhanced load is feasible, the consumer shall :

(a) furnish work completion certificate of consumer's installation and test report from a licensed electrical contractor where alteration of installation is involved.

(b) furnish letter of approval for the electrical installation of the consumer from the Electrical Inspector, and other statutory clearance as required under other regulations in force, if required. Similarly, approval from Inspector of Mines shall be provided for additional load to be provided for electrical installation for mines.

(c) pay additional security deposit, cost of addition or alteration required to be made to the system, if any, and the supply arranging charges, if applicable.

(d) execute a supplementary agreement."

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 7329/06 **सन्** **200**

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Petitioner's emphasis was on Clauses 7.4(c) and 7.6(c) of the Code. In both the provisions it has been stated that in case of enhanced load, consumer shall pay additional security deposit, cost of additional infrastructure, cost of addition or alternation required to be made to the system and supply arranging charges, if any, applicable. It is evident that both the provisions only require payment of additional charges for additional work, if any. If a consumer decides to take additional load and Board agrees to provide additional supply, Board only demands additional security deposit and extra expenditure, which is required to be incurred by the Board to supply additional load. We failed to understand how such a provision can be said to be arbitrary when it applies to all the consumers and that too is a just demand. In our considered opinion both the provisions are neither arbitrary, illegal nor *ultra vires*, therefore, those provisions cannot be quashed and consequently the demand notice cannot be declared as illegal. However, if demand has been made without any extra expenditure incurred by the Board or is against the aforesaid both clauses, petitioner can raise this dispute before the competent forum having jurisdiction to decide such factual aspects. For the foregoing reasons, the petition is liable to be dismissed summarily and is accordingly dismissed. Consequently, M.(W.).P.No.5119 of 2006 & I.A.No.12149 of 2006 stand disposed of. **Sd/-** **V.K.Shrivastava** **Judge**	**Sd/-** **Dhirendra Mishra** **Judge**
Gowri		

(पीछे देखिये)